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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 RUDOLPH ROYBAL

12 Petitioner,
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14 vs.
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18 RON DAVIS, Acting Warden of San
19 Quentin State Prison,

20 Respondent.
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CASE NO. 99cv2152 JM (KSC)
DEATH PENALTY CASE

FINAL ORDER:

**(1) GRANTING PETITION
FOR WRIT OF HABEAS
CORPUS;**

**(2) ISSUING CERTIFICATE
OF APPEALABILITY; AND**

**(3) ORDERING STAY OF
EXECUTION PENDING
APPEAL**

22 For the reasons discussed in the court's December 2, 2015 Order (see ECF No.
23 284), the Petition for Writ of Habeas Corpus is **GRANTED** as to Claims 9, 12 and 39
24 in the First Amended Petition and **DENIED** as to all other claims. The Court
25 **ORDERS** the State of California to either grant Petitioner a new penalty phase trial or
26 to vacate the sentence of death and re-sentence Petitioner to life in prison without
27 parole, within 120 days of the date of this Order.

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1 The Court **ISSUES** a Certificate of Appealability ["COA"] on Claims 4-9, 12,
2 and 39 and **DENIES** a COA on Claims 1-3, 10-11, and 13-38. See 28 U.S.C.
3 § 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000); (see also ECF No.284 at pp.
4 220-21.)

5 Pursuant to Local Rule HC.3(g)(6), the Court **ORDERS** a stay of execution
6 "which will continue in effect until the court of appeals acts upon the appeal or the
7 order of stay."

8 The Clerk is **ORDERED** to enter Judgment for Petitioner and to close the file.

9 **IT IS SO ORDERED.**

10 DATED: December 2, 2015

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12 Hon. Jeffrey T. Miller
13 United States District Judge
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